

# **2004 Indiana Voter Registration Guidebook**



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# 2004 VOTER REGISTRATION GUIDEBOOK

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This Manual is designed to serve as an overview of voter registration information. Although the Election Division takes every effort to ensure the accuracy of the information in this publication, **where your legal rights are involved, do not rely on this Manual. Instead, review the law yourself or consult with your attorney.**

# VOTER REGISTRATION

## Voter Qualifications and County Administration

In general, a person must be registered in order to vote in Indiana. Ind. Const. Art. 2 § 14.

Each county in Indiana maintains the voter registration rolls for the county. The county official responsible for maintenance of the registration rolls is either the circuit court clerk ("clerk") or a separate board of registration ("board"), including combined boards of elections and registration created in Lake and Tippecanoe counties by state law. The circuit court clerk is an elected official, chosen by the voters to serve a four year term. A board of registration consists of two members, who are appointed by the county chairmen of the major political parties. In Lake County, the board of elections and registration consist of the clerk and four other members. IC 3-6-5.2; 3-6-5.4; 3-7-12.

The county voter registration office must arrange for a separate listing in each local telephone directory, under the heading of county offices. The listing must be styled "Voter Registration" and include the appropriate addresses and telephone numbers for the office. IC 3-7-12-24.

The voter registration laws in Indiana are dramatically influenced by two important pieces of federal legislation: The National Voter Registration Act of 1993 ("NVRA") and The Help America Vote Act of 2002 ("HAVA"). Currently, Indiana is in the midst of transitioning to a statewide voter registration system that complies with HAVA.

To qualify to register in Indiana a person must: 1) be a citizen of the United States; 2) be at least 18 years old on the day of the next general or municipal election; 3) have lived in a precinct for at least 30 days before the next election; and 4) not currently be in prison following conviction of a crime. Ind. Const. Art. 2 § 2; IC 3-7-13-1 and 4. There are also "fail-safe" procedures under state and federal law that provide procedures for certain persons to vote even though they do not meet the residency requirement. These fail-safe procedures will be discussed in more detail below.

A person who will meet the age requirements by the date of the next general or municipal election may register even though they do not meet the age requirement at the time of registering. For example, a person born November 1, 1986 may register to vote in the 2004 general election even though he/she will only be 17 years old at the time of the 2004 primary because the next election is the general election on November 2, 2004, at which time he/she will be 18 years old.

If a person is 17 years old on the date of the primary but will be 18 years old by the date of the next general election, he or she may vote for all persons to be *nominated* at the primary for the general election. However, this voter may not vote for school board members being elected to office during the primary or for persons to be elected to *political party* offices (such as convention delegate or precinct committeeman). IC 3-7-13-3. A county voter registration system must be able to remove a registrant from a poll list, or jury list, if the voter would not yet be eligible to vote or serve on a jury. IC 3-7-35-2 and 3.

A person who is convicted of a crime and imprisoned following conviction is not entitled to register to vote. If, or if registered to vote prior to conviction and imprisonment, may be removed from the registration rolls following conviction and imprisonment. IC 3-7-13-4.

## When to Register

In an election year there are two different registration periods, pre-primary and pre-election. The pre-primary registration period runs from December 1 (or the first Monday in December if December 1 if it falls on a Saturday or Sunday) through the twenty-ninth day before the primary. The pre-election period runs from 14 days after the primary through the twenty-ninth day before the election. IC 3-7-13-10. In order to be processed prior to an election, mail-in voter registration applications must be postmarked on or before the twenty-ninth day before a primary or general election. Mail-in registration applications may be sent directly to a county or may be sent to the election division. Mail-in applications received by the election division that are postmarked by the twenty-ninth day before the primary or general election will be immediately forwarded to each county voter registration office, and must be processed no matter how late the county voter registration office receives the application, so long as the postmark indicates that the registration application was placed in the U.S. mail by the twenty-ninth day before the primary or general election.

If a mail-in registration application contains no post-mark, then the application must be processed prior to the election only if the registration application is *received* in the mail by a county registration office, or the election division, by the twenty-fourth day before a primary or general election. IC 3-7-33-4.

A clerk or board may receive voter registration applications during periods when registration is closed and, if they do, they must process these registrations on the first day that the new registration period opens. IC 3-17-13-12. A county voter registration office may not officially register, or update a registration, while registration is closed except for a military voter who qualifies to register under a procedure described below. However, this restriction does not apply to the clerk or board processing information provided by on precinct poll lists, which are returned to the county after the polls close on election day. The poll lists and related documents must be resealed following the processing of this information. IC 3-10-1-31.

There are special rules relating to registration and absentee voting applicable to military voters. A military voter, otherwise known as an "absent uniformed services voter", is an individual serving away from the individual's of permanent residence who is also:

- A member of the Army, Navy, Air Force, Marine Corps, and Coast Guard, or other uniformed service on active duty who, by reason of active duty, is absent from the place of residence where the member is otherwise qualified to vote.
- A member of the Merchant Marine who, by reason of service in the Merchant Marine, is absent from the place of residence where the member is otherwise qualified to vote.
- A member of the Indiana National Guard deployed or on assignment outside Indiana.

### OR

- A spouse or dependent of a military voter who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(See Indiana Code 3-5-2-1.5 for definition of "absent uniformed services voter" and IC 3-5-2-49.3 for definition of "uniformed services.")

An absent uniform services voter (or the voter's spouse or dependent) may apply to register after registration closes but before preparation of the poll list if the voter:

- 1) is otherwise entitled to vote in Indiana;
- 2) is absent from Indiana during the previous registration period;
- 3) returns to Indiana after the close of registration but before preparation of the poll list;
- 4) shows the county registration office a discharge dated on or after the beginning of the preceding registration period or a government movement with a reporting date on or after the beginning of the preceding registration period; and
- 5) completes a registration application

If an absent uniform services voter (or the voter's spouse or dependent) registers under these conditions then the voter is entitled to vote in the upcoming election.

An absent uniform services voter (or the voter's spouse or dependent) may apply to register to vote after the poll list is printed until noon election day if the voter:

- 1) complies with (1) and (2) above;
- 2) returns to Indiana after preparation of the poll list but before noon election day;
- 3) shows the county registration office a discharge dated on or after the beginning of the preceding registration period or a government movement order with a reporting date on or after the beginning of the preceding registration period;
- 4) completes a registration application;
- 5) signs an affidavit that the voter has not voted at any other precinct in the election. State Form: ABS-13.

If an absent uniform services voter (or the voter's spouse or dependent) registers under these conditions then the voter is entitled to vote in the upcoming election **at the office of the circuit court clerk** any time after the voter registers **but before noon election day**. If the person votes in the upcoming election at the office of the circuit court clerk the voter will cast an absentee ballot and the circuit court clerk will certify that the voter registered under this statute and the circuit court clerk will attach the certification to the voter's absentee ballot envelope. State Form: ABS-11. For more information, see the *2004 Military and Overseas Voters Guide*.

The county election board delivers these certificates by courier to the precinct election boards at the polls on election day. The inspector attaches the certificates to the poll list in the presence of the poll clerks and the poll clerks sign a statement indicating that the inspector did so. If the person does **not** vote in the upcoming election, then the circuit court clerk delivers the voter's registration application to the board of registration (if applicable). The voter is then registered effective the first day of the next registration period. (citations: IC 3-5-2-1.5; IC 3-7-36-11; 3-7-36-14; 3-11-4-3; 3-11-10-16; 3-11.5-4-8; 3-11.5-4-9; 3-11.5-4-24)

## How to Register

### Registration Applications

A person may register to vote at these locations, among others: 1) county voter registration office; 2) Bureau of Motor Vehicles ("BMV") license branch while applying for, or renewing, a driver's license; and 3) a public assistance office while applying for services. A person may register using a mail-in form which can be obtained at a number of places, including: public libraries, license branches, township trustee offices, city and town clerks' offices, county voter registration office, schools and the election division. Mail-in registration applications are also included in Indiana tax booklets and may now be downloaded from the Internet from the website of the election division, [www.in.gov/sos/elections](http://www.in.gov/sos/elections). IC 3-7-23-2; IC 3-7-31-1. Mail-in registration applications may be mailed or hand-delivered by the voter or a person presenting the form on behalf of the voter. IC 3-7-22-9. Registration forms are no longer required to be printed on card stock. State Forms: VRG-7; VRG-7i (Internet downloadable version); VRG-7p (tax booklets); VRG-7p (Spanish version); VRG-11 (mail-in registration form with specific county return address).

Registration applications require the applicant's name, residence address (see below under "Residence"), mailing address, birth date and a voter identification number (see below under "Voter Identification Number"). The applicant's phone number and email address may also be provided at the voter's option. IC 3-7-31-5; IC 3-7-34-1. In addition, after December 31, 2003 HAVA requires that each registration application include the following two questions: 1) Are you a U.S. Citizen? or 2) Will you be 18 years of age on or before the election day? (See below)

In general, Indiana statute requires county voter registration officials to reject voter registration applications that are not submitted on the most recent version of the form approved by the Indiana Election Commission ("Commission"). IC 3-7-31-2; IC 3-5-4-8(c). Local registration officials are authorized by statute to make minor modifications to registration forms approved by the Commission so that the forms are compatible with the county's record system. IC 3-7-31-3.

Even though Indiana statute typically requires the use of the most recent version of a state prescribed form, in past the Commission has issued orders authorizing the acceptance of older versions of a Commission-approved voter registration application. However, since HAVA requires Indiana to change its registration forms beginning January 1, 2004, county voter registration officials will no longer be able to accept older registration forms that do not comply with HAVA.

In addition to Commission-approved forms, the NVRA requires states to accept federal voter registration applications, samples of which are in the attached appendix. IC 3-7-22-2. The Federal Election Commission's Office of Election Administration (OEA) has recently revised the National Mail Voter Registration Form. The form has been updated to reflect new requirements set forth in HAVA. The new version of the national form can be accessed on the Federal Election Commission's web site at: [www.fec.gov/votregis/vr.htm](http://www.fec.gov/votregis/vr.htm) and is attached. Another federal form is the Standard Form 76, which is a combined registration application/absentee ballot request, available for use by absent uniform services voters and overseas voters. This can be accessed on the Federal Voting Assistant Program's web site at: [www.fvap.gov/pubs/onlinefpca.html](http://www.fvap.gov/pubs/onlinefpca.html).

Absent uniform services voters are discussed above. An overseas voter is: a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States or a person who resides outside the United States and, but for such residence, would be qualified to vote in the last place in which the person was domiciled before leaving the United States. IC 3-5-2-34.5.

**A voter is required to execute and file a registration application with an original signature. IC 3-7-32-1. A copy of a voter registration application that contains a copy of the voter's signature is not acceptable.**

If a voter is unable to write, the voter may procure another individual to write the voter's name on the registration application and the voter shall make the voter's mark on the signature line of the application (e.g. "X"). IC 3-7-32-7. The person filling out the registration application on behalf of the voter shall also write the person's own name and address on the registration application in the space provided for that purpose. If an absent uniform services voter or an overseas voter is unable to sign or mark the registration application due to a disability, any person designated by the voter may sign the voter's name on the application as long as it is signed in the presence of the voter. IC 3-7-36-4

In general, a voter may not submit a registration form by fax. IC 3-7-32-4. However, an absent uniform services voter or an overseas voter may submit a voter's registration form by fax. IC 3-7-32-5, IC 3-11-4-4.

### **Voter Identification Number**

An individual who applies to register to vote must provide a "voter identification number" on the registration application. IC 3-7-13-13; IC 3-7-31-5. The voter identification number is the individual's Indiana driver's license number, or if an individual does not have an Indiana driver's license, the individual must provide the last four (4) digits of the individual's Social Security number when the individual registers to vote. The use of an *identification card* number issued by the Indiana Bureau of Motor Vehicles as an alternative voter identification number has been repealed to make Indiana law consistent with HAVA. New registration applications reflect this change in the law. This does not affect a person who registered under prior law with an identification card number issued by the Indiana Bureau of Motor Vehicles.

Once the voter has supplied a voter identification number, it may not be changed unless: (1) the voter made an error when providing the number when the voter registered to vote; (2) the election division or a county voter registration office made an error when entering the number into the statewide voter registration system; (3) the voter obtains or provides an Indiana driver's license number or a partial social security number after the voter was assigned an identification number by the election division (see below); or (4) the voter ceases to have an Indiana driver's license number after the voter provided that number. (Former law only allowed the voter identification number to be changed in case of an error by the voter.)

Since many voters registered prior to the voter identification requirement, Indiana statute attempts to obtain this voter identification number from such voters during an election. The poll list should indicate those voters who have not provided a voter identification number. A poll clerk is required to: 1) explain to a voter who has not provided a voter identification number what the voter identification number is; 2) request that the voter write a voter's identification number on the poll book; and 3) explain that a voter is *not required* to provide a voter identification number at the polls in order to vote. If a voter does give a voter's identification number, then the clerk or board shall update the voter's registration to include this information. IC 3-10-1-31.

### **New Questions on the Voter Registration Form**

HAVA, as implemented by Indiana law, requires, as of January 1, 2004, that all voter registration applications to contain the following two questions that the voter must affirmatively indicate on the voter registration application by checking a box “yes” or “no”: 1) Are you a U.S. Citizen? or 2) Will you be 18 years of age on or before the election day? After December 31, 2003, if the county voter registration office receives a registration application that is incomplete as a result of the failure of the applicant to answer either of the questions, the county voter registration office shall process the registration application if the applicant submits a written statement answering any question that was not answered on the original application not later than the twenty-ninth day before the date of the next general election. SEA 268, IC 3-7-34-2, IC 3-7-34-3. Of course, if the applicant answers either or both of these questions “no” the registration application must be rejected.

### **New Identification Documentation**

HAVA, as implemented by Indiana law, requires, as of January 1, 2003, that an individual who submits an application to register to vote by mail and has not previously voted in a general election (or a special election for federal office) in the *county* as of the date the registration application is received must provide additional identification documentation to the county voter registration office prior to voting. The identification documentation required may be either: (1) a current and valid photo identification; or (2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter (at the address shown on the voter’s registration). Identification documents may be submitted in the mail with the registration application or by mail, or in person, at the county voter registration office at a later date. SEA 268, IC 3-7-22-5(5), IC 3-7-33-4.5

Even among the group of voters who register by mail, this additional documentation requirement does not apply to everyone. Specifically, this documentation requirement does not apply to:

- 1) an absent uniformed services voter or overseas voter; or
- 2) an individual entitled to vote absentee under federal law due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual, or for any other reason under federal law.

After the statewide voter registration system is in operation (by January 1, 2006), this requirement will not apply to an individual who submits a registration application that includes the individual’s Indiana driver’s license number of the last four digits of the individual’s Social Security number if the county voter registration office or election division matches this information with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application. When the statewide voter registration system becomes operational, this requirement will continue to apply to certain voters who are registering for the first time at an address within *Indiana*.



If the county voter registration office determines that the applicant is required to submit additional documentation, but has not done so, the office shall process the application but make a notation in the county voter registration computerized database that additional documentation is required for that voter. Once the voter submits the identification documentation, the county voter registration office shall remove this notation on the voter's registration record and enter the following information about the documentation provided: (1) The date the documentation was provided; (2) Whether the documentation was: A) presented to a precinct election board by a voter voting in person at the polling place; B) filed with the county voter registration office by the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office; or C) filed with the county voter registration office by the county election board after the person applied to cast an absentee ballot; (3) A brief description of the type of documentation provided. The election division has provided each county voter registration office with a suggested coding system for identifying the types of documentation. SEA 268, IC 3-7-33-4.5, IC 3-7-27-20. This suggested coding system is in the attached appendix.

To reduce as many problems as possible at the polls, every effort should be made to obtain the identification documentation from voters required to give it prior to election day. Toward this end, state statute requires that each county voter registration office shall, no later than December 31, 2003, identify each registered voter in the county who registered by mail after December 31, 2002 who has not yet provided the identification documents. Then, not later than March 1, 2004, the county voter registration office shall mail a notice to each voter identified that (1) informs the voter regarding the additional identification documents required by federal law before the voter casts a ballot in person or by mail; and (2) encourages the voter to submit photocopies of the required documentation to the county voter registration office before election day in 2004. The election division has a sample notice available for these mailings and the sample notice is in the attached appendix. The county election board may mail notices at any time before March 1, 2004 and is not required to mail all of the notices as part of the same mailing. (SEA 268, noncode provision)

The county voter registration office shall indicate on each precinct's poll list whether any voter on the list is required to provide additional identification documents before voting in person or by absentee ballot. SEA 268, IC 3-7-29-1, 3-11-3-18. The county voter registration office may continue to receive identification documentation after the preparation of the poll list. Each county election board shall prepare a list certified by the circuit court clerk that states the name of each voter subject to the identification requirements who filed the required documents with the county voter registration office after the printing of the poll list and, as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with Indiana election law. This list shall be delivered to the precinct election boards with the absentee ballots (or with the certified lists in counties that count absentee ballots at a central location). IC 3-11-10-12, IC 3-11.5-1-4 (20).

In addition, the county voter registration office shall visit the appropriate post office not later than noon on election day to accept delivery of mail containing identification documentation. The county voter registration office shall immediately notify the county election board of the names of voters who have filed additional identification documentation so that the county election board can provide this information to precinct election boards prior to the closing of the polls at 6 p.m. SEA 268, IC 3-11-10-11. The county election board shall transmit a supplemental certified list to the appropriate precinct election board identifying any additional voters not on the original certified list delivered with the absentee ballots to the precinct. The supplemental list shall contain the names of voters who have submitted the required documents to the county voter registration office. The county voter registration office must provide the county election board with these names not later than 3 p.m. election day to be included in a supplemental certified list. If the county election board determines that the precinct election board may not receive the supplemental list before the closing of the polls, the county election board shall attempt to contact the precinct election board to advise the board regarding the content of the supplemental list. The county election board shall file a copy of the supplemental list for that precinct as part of the permanent records of county election board. SEA 268, IC 3-11-10-12.

If a voter offers to vote at the polls on election day, and the poll list indicates that the voter is required to present this identification documentation prior to voting, the poll clerk shall advise the voter that the voter must present one of the pieces of identification identified above. If a voter presents the required document, the poll clerk shall add a notation to the poll list indicating the type of document presented by the voter. SEA 268, IC 3-11-8-25. The election division shall prescribe a standardized coding system to classify identification documents presented to the poll clerk for entry into the county voter registration system. After an election, the county voter registration office may unseal the precinct election material and record on the county voter registration record information on the poll list regarding documentation provided by voters at the polling place prior to voting. SEA 268, IC 3-10-1-31.

If the voter who is required to provide additional documentation does not do so at the polling place, the precinct election officials shall allow the voter to vote a provisional ballot. The voter's provisional ballot will not be counted unless the voter provides the documents to the county voter registration office prior to the close of election day. SEA 268, IC 3-7-33-4.5, IC 3-11.7-2-1(b), IC 3-11.7-5-2(c), IC 3-11.7-5-3.

A voter who is required to provide additional documentation prior to voting may submit an absentee ballot application and will be provided an absentee ballot. If the application was made to vote absentee by mail, the county election board shall include a notice in the absentee ballot envelope (inner envelope with the ballots ABS-6 mailed to the voter). This notice must inform the voter that the voter must file the additional documentation with the county voter registration office not later than noon election day for the absentee ballot to be counted. The Indiana election commission will prescribe the form of this notice. State Form: ABS-18. If the absentee voter is voting before an absentee voter board (either in the clerk's office or a traveling board), the absentee voter board, shall, upon accepting the completed absentee ballot from the voter, provide the voter with the notice described above. If the voter does not present the required identification documents before receiving the absentee ballot, the absentee ballot will be processed (at least initially) as a provisional ballot. SEA 268, IC 3-11-10-28.

When the absentee voter returns the absentee ballot, the county election board shall contact the county voter registration office to determine if the additional identification documents have been filed with the county voter registration office by the voter. If the voter has filed the documents, the county election board shall add a notation to the voter's absentee ballot application indicating that the required documents have been filed and that the absentee ballot may be counted if the ballot otherwise complies with this article. If the voter has not filed the documents with the county voter registration office, the county election board shall add a notation on the absentee ballot application substantially as follows: "Inspector: As of (insert date the absentee ballot application was approved) this voter was required to provide additional identification documentation with the county voter registration office before this ballot may be counted. Check the poll list and county election board certification to see if the voter has filed this information. If not, process as a provisional ballot if the ballot otherwise complies with Indiana law." (SEA 268, IC 3-11-10-4.5)

When processing absentee ballots at the polls, the inspector shall hand the ballots to the judges for deposit into the ballot box and enter the absentee voter's name on the poll list only after the inspector determines the voter is not required to file additional identification documents with the county voter registration office. If the inspector finds that the voter has not filed the additional identification documentation with the county voter registration office but that the absentee ballot otherwise complies with law, the inspector shall direct that the absentee ballot be processed as a provisional ballot. SEA 268, IC 3-11-10-16, IC 3-11-10-16.5.

In a county that counts absentee ballots at a central location, if the absentee ballot counters find that the voter has not filed the additional identification documents required to be filed with the county voter registration office, but the ballot otherwise complies with law, the absentee ballot shall be processed as a provisional ballot. SEA 268, IC 3-11.5-4-12.

As a result of these changes in statute, many questions from voter registration officials have arisen. Following are some frequently asked questions with answers that address these questions.

**1. Q:** Do we continue to accept older registrations forms that do not refer to the new HAVA requirements for the voter identification number and the new questions?

**A:** As indicated, the Commission has in the past approved all previous versions of the voter registration forms for use in Indiana. However, after December 31, 2003 this is no longer true since the new registration forms must meet the requirement of federal law. Mail-in voter registration applications must comply with HAVA requirements, and may not be accepted for processing by a voter registration office after December 31, 2003 if the form fails to meet those requirements. SEA 268, SECTION 209. The Election Division suggests, however, that counties attempt to contact the voter and supply the voter with a new registration application. The Election Division will be providing mail-in form distribution sites with forms that will comply with HAVA.

**2. Q:** Is the county voter registration office or the agency that sent in the application (for example, the "BMV") responsible for attempting to obtain the voter identification number if it is missing on the application?

**A:** The county voter registration office is responsible for obtaining any missing information on a voter registration application once that application has been forwarded to the county by any full service agency.

**3. Q:** **What if** a registration is submitted on the most recent registration application approved by the Commission but the voter identification number is missing or the new questions have not been answered?

**A:** State statute provides that an individual **must** provide a voter identification number. If a new registration on a current registration form does not contain a voter identification number then we suggest that you process the registration like any other incomplete registration submitted to your office. See "Processing Complete and Incomplete Applications" below. The registration application may be processed if you obtain the voter identification number from the voter by mail or on the phone. However, if the new questions were not answered on the original registration application, then the county voter registration office shall process the registration application if the applicant submits a written statement answering any question that was not answered on the original application not later than the twenty-ninth day before the date of the next general election.

**4. Q:** Does a voter who registers at a full-service site like a license branch have to provide this additional identification documentation?

**A:** No, this requirement only applies to individuals who registered by mail, not individuals who registered with a full service voter registration agency.

**5. Q:** Does this additional identification documentation apply to a voter who fills out a registration application as part of a registration drive performed by a party or organization where the party or organization representative delivers the registration applications to the county voter registration office?

**A:** There is still some question as to whether the federal law will be interpreted to apply this identification documentation requirement applies to such voters. Until there is an authoritative interpretation to indicate that the additional documentation requirement applies to such voters, we are advising that county voter registration offices apply the identification documentation requirement only to voter registration applications received in the mail.

- 6. Q:** What if a voter registration application is received by the county voter registration office by mail and then, before the close of registration, the voter either registers in person at the county voter registration office or at some full service registration site like the license branch?
- A:** In that case, the voter has registered in person prior to the close of registration and, therefore, the additional identification documentation requirement would no longer apply to the voter.
- 7. Q:** Will voter registration officials have to keep a copy of the identification documents provided to the voter registration office?
- A:** Yes, if the voter provides a copy of the documentation to the voter registration office. The county voter registration office would keep copies of identification documents provided by voters for 24 months. If documents are presented by a voter at the poll site or at the county voter registration office, for example, the poll workers or voter registration officials would document the type of document presented. This information would then be placed on the voter's permanent voter registration record.

## **Residence**

Residence means the place: 1) where a person has the person's true, fixed, and permanent home and principal establishment; and 2) to which the person has, whenever absent, the intention of returning. IC 3-5-2-42.5. In addition, there is a chapter in the election code that contains standards used to determine the residency of a voter, candidate or a person holding office. IC 3-5-5. While this definition and these standards are helpful, there are some recurring issues raised with regard to providing information about a registration applicant's residence for those who are homeless, mobile, in college, or overseas.

People who have a non-traditional residence, like those who are homeless, or those who live in a motor home, must still provide a location sufficient to allow local election officials to place the person in a precinct. If the person stays in more than one place then ask the person to designate the location where he usually sleeps in the county. If the place has no street address, then have the person indicate the location by drawing a map of the location in the space on the registration application provided for that purpose. A person with a non-traditional residence must also provide a mailing address, however, a post office box will not suffice as the residence address for purposes of establishing the precinct in which the voter must vote. See IC 3-7-37

A college student may use either his home address or his college address as his registration address, but must claim one address or the other as the student's legal residence. Different students may properly choose one or the other, depending on the facts of their situation, and their intent. No one rule applies to all college students. It is a violation of election law to challenge a voter on the basis that: 1) he/she is enrolled in an educational institution or; 2) his/her registration is at an address which is housing provided for students by the educational institution. IC 3-5-5-7.

An overseas voter may not have a physical residence in a precinct but such voter may, nonetheless, be entitled to vote in a precinct in Indiana. An overseas voter includes: 1) an absent uniformed services voter who, by reason of active duty or service in a branch of the military, is absent from the U. S. on the date of the election or a member of the Indiana National Guard deployed outside Indiana; 2) a U.S. citizen who resides outside of the U.S. but intends to return to the U.S. and 3) a U.S. citizen who permanently resides in another country. IC 3-5-2-34.5 A county voter registration office may inform an overseas voter to designate a prior residence, or an arbitrary address, as his registration address, even though the person has no legal right to occupy a house or apartment located at that address.

Note that an overseas voter who is U.S. citizen but ***permanently*** resides outside of the U.S. is still entitled to vote by virtue of his or her U.S. citizenship. In Indiana, however, such person is entitled only to a ballot for federal offices, and is considered for election purposes to be a registered voter of the Indiana precinct where the county voter registration office is located. IC 3-11-4-8, IC 3-5-2-24.

### **Processing Complete and Incomplete Registration Applications**

If a registration application is complete then it should be compared with those on file to determine if it is a duplicate registration. IC 3-7-33-2. If it is a duplicate then the new registration need not be added to the system, however, the new card should be kept as the official registration in that it contains the most recent signature of the voter.

The clerk or board shall determine from the information on the registration application whether the applicant is eligible to register. The clerk or board shall then mail a notice by non-forwardable mail to the applicant at the mailing address provided on the registration application informing the applicant about the disposition of the application. IC 3-7-33-5(c). If the application is approved, the notice must state: 1) that the application was received; 2) that the applicant is registered at the address placed on the form; 3) the name of applicant's precinct; 4) the address of the polling place for the named precinct; and (5) the voter's voter identification number. IC 3-7-33-5(d). State Form: VRG-13a or 13b Voter Registration Acknowledgment Notice.

If the application for registration is denied the notice must state that the application was received and the notice must state the reasons for denial. State Form: VRG-10 Notice of Disposition.

If a notice approving an application is returned by the postal service due to an unknown or insufficient address, the clerk or board *shall* determine that the applicant is ineligible and deny the application. IC 3-7-33-5(f). It is advisable to keep a registration application in a "pending" status for a sufficient period of time after notice is sent to determine whether or not the notice will be returned due to unknown or insufficient address.

Please note that any rejected registration application must be retained for 24 months.

If the registration application is an update to an earlier registration, a notice must still be sent as described above. If the notice sent out in response to a registration update is returned due to an unknown or insufficient address, then the clerk or board may reject the newer updated registration. If the voter has completed the previous address section of the update, indicating that the voter's registration should be cancelled at a prior address, then the prior registration should be cancelled also. If the update does not indicate that the prior registration should be cancelled, then the prior registration remains in effect unless removed pursuant to an otherwise authorized registration maintenance procedure.

The above-described notice is sent to the mailing address on the voter registration application and not to the registration address. Some registration officials believe that it should be sent to the residence address, not the mailing address, as a way of determining if the residence is genuine. One explanation as to why statute requires the notice to be sent to the mailing address is that the registration address could not be used to mail notices to those with non-traditional residences (e.g. homeless). In addition, other people, namely those who are in the military, college students and nursing home patients, may only receive a notice if it is sent to their mailing address.

On the other hand, since the notice is sent to the mailing address, the notice may not reveal a residence address that is inadequate. However, an inadequate residence address should become evident when the registration official attempts to place the applicant into a precinct. If the residence address on the application is inadequate, state statute requires the clerk or board to attempt to process the application in the same manner as an incomplete application in an effort to cure the defect. This process is described in greater detail below. If the effort to cure the defect is unsuccessful, the clerk or board must refer this problem to the County Election Board and the County Election Board may ultimately decide to reject the application for an inadequate residence address. IC 3-7-34.

If a registration application is incomplete, so that the clerk or board is unable to make a determination of the applicant's eligibility for registration, then the clerk or board shall make at least one attempt to contact the applicant by mail, and one attempt to contact the applicant by phone, in order to obtain the missing information. IC 3-7-34-2. If the missing information is obtained from the voter then the clerk or board shall complete and process the application. IC 3-7-34-3. If the missing information is not obtained then the clerk or board must reject the application and certify the application, along with a other applications with missing information that have been rejected, to the County Election Board. IC 3-7-34-4. If an incomplete application is rejected after attempts to cure the defect, a notice describing the reasons for rejection must be sent to the applicant at the mailing address provided on the application.

Registration applications made at a BMV license branch, or other public service agency, must be forwarded by the agency to the clerk or board within 5 days of receipt. IC 3-7-18-19 (BMV) If these applications contain all the information required to be supplied by the voter, but not all the information required to be supplied by the agency, then the clerk or board shall make one attempt to obtain the missing information from the agency. If the missing information is not obtained from the agency within 7 days after the county voter registration office provides notice to the agency, the county voter registration office must notify the Indiana election division. The co-directors will then contact the agency to request that this information be provided to the county voter registration office, or require the agency to file a statement with the county voter registration office indicating why the information is not available. IC 3-7-34-5.

The registration application must be processed whether the information is received from the agency or not. IC 3-7-34-6. However, if the agency fails to supply the missing information, then the clerk or board shall certify this fact to the County Election Board and the County Election Board shall notify the agency to supply the information within 30 days. IC 3-7-34-7 and 8. If the agency fails to comply within 30 days of this notice, the County Election Board must report the agency's noncompliance to the co-directors of the Indiana Election Division. IC 3-7-34-8.

If a clerk or board receives a voter registration application from a voter that contains a registration address in Indiana, but not in the county of the clerk or board receiving the application, then the clerk or board shall promptly deliver or mail the application to the clerk or board of the county indicated by the residence address listed on the application. IC 3-7-34-9.

## **Procedures Followed By Full Service Agencies**

A person must be offered the opportunity to register while applying for a new license, or a license renewal, at a BMV license branch. Other agencies likewise must offer a person the opportunity to register to vote. If the person declines to register, he must sign a “declination.” The BMV license branch forwards the registration applications and declinations directly to the clerk or board. The BMV differs from other agencies in that each license branch sends registration applications directly to the relevant clerk or board.

Local branches of other agencies that perform registration activities, for example, local offices of the Department of Workforce Development (“DWD”), forward all voter registration applications and declinations to a central clearing house in DWD’s state office and from there the applications are forwarded to the counties. State Forms: VRG-6 (registration application at “full service” voter registration agencies).

The agencies and county voter registration office use state prescribed transmittal and receipt forms to document the transfer and acceptance of voter registration applications. State Forms: VRG-8 and VRG-9.

## **Voter List Maintenance**

### **Disfranchisement of Persons Imprisoned Following Conviction**

A person who is ***imprisoned following conviction*** of a crime (a felony or a misdemeanor) is ineligible to vote while in prison and should be removed from the registration rolls. IC 3-7-46-2, IC 3-7-13-4. To be disfranchised, the person must satisfy both conditions: 1) the person must be convicted of a crime; and 2) the person must be imprisoned following the conviction.

A person who is in prison awaiting trial is not disfranchised because he is imprisoned *before* conviction not *following* conviction. In addition, while a person may be subject to an order issued by a court, some orders are not considered “imprisonment” for purposes of this statute. More specifically, a person who is:

- 1) on probation;
- 2) on parole;
- 3) subject to home detention under IC 35-38-2.5; or
- 4) placed in a community corrections program under IC 35-38-2.6;

is eligible to register and to vote. IC 3-7-13-5 and IC 3-7-13-6.

If a person has been removed from the registration rolls because of his imprisonment following conviction, the person may once again register as soon as he/she is released from prison provided that it is during an open registration period. IC 3-7-13-5.

State statute requires the State Department of Correction to provide the election division with a list of disfranchised individuals in its facilities on the second Tuesday of every month. If the election division receives such a list, it must forward relevant portions of the list to any affected county. IC 3-7-46-4. NVRA requires the U.S. Attorney to provide the election division with information about Indiana residents imprisoned following the conviction of a federal crime which the election division must forward to any affected county. IC 3-6-46-3.

In addition, each county sheriff is required to provide the clerk or board with quarterly lists of Indiana residents who have been convicted of a crime and placed in the county jail during the previous quarter. IC 3-7-46-6. Specifically, these lists are to be provided no later than January 31, April 30, July 31 and October 31 of each year and must contain a list of each Indiana resident who was imprisoned after conviction at anytime during the previous month. The clerk or board shall provide any other clerk or board in another county of the name and last known addresses of each person on the list from the sheriff whose last known address is in another county. IC 3-7-46-7.

The clerk or board shall prepare a list of the names and last known addresses of disfranchised voters on the last day of each month. IC 3-7-46-8. This list should be provided, upon request, to county chairmen. IC 3-7-28-13. Notice of disfranchisement (State form VRG-17) must be sent to each disfranchised voter at his/her last known address not later than 30 days after preparation of this list. IC 3-7-46-9.

## **Deaths**

Indiana statute provides for the removal of a voter from the registration records upon death. IC 3-7-45-1. State and local health officials (State Department of Health, county health officer and each municipal health officer) are required to file a quarterly list of deceased residents. IC 3-7-45-2. These reports must be filed not later than: January 31, April 30, July 31, and October 31 of each year.

The State Department of Health ("DOH") must submit its report to the Election Division in electronic format. The report must contain the names, ages and known voting addresses persons who: 1) died within Indiana; 2) died in an Indiana county that is not the county it is reporting to; 3) died within the preceding 3 months; and 4) maintained a residence address within the county it is reporting to during the preceding 2 years. For example, John Doe dies in Vigo County on February 15, 2004. He resided in Knox County at the time of his death. The report to Knox County on April 30, 2004 should contain the name, age and known voting address of John Doe.

The DOH shall also include in its report to the Election Division information it has obtained from other states regarding the death Indiana residents in other states. IC 3-7-45-5. Clerks or boards shall cancel the registrations of such voters not later than 30 days after receipt of a report from the DOH.

Each county health officer and municipal health officer shall submit quarterly reports to the DOH identifying the names, ages, and known voting addresses of any person who either: 1) died within the jurisdiction of the officer during the previous 3 months; or 2) for whom burial permits have been issued by the officer during the previous 3 months. The DOH shall submit this information to the Election Division, which shall report the information to the affected county. A county or municipal health officer may also report this information directly to a county voter registration office.

A clerk or board may also cancel the registration of a deceased person within 30 days of receipt of a death certificate. IC 3-7-45-4. A clerk or board may require additional information to verify the person named in the death certificate is the same person listed on the registration.

Not later than 30 days after the clerk or board receives a quarterly list of deceased persons the clerk or board is to also provide the county chairmen a list of all such deceased persons whose registration has been canceled by reason of death. IC 3-7-28-12.



## **Cancellation by Voter**

A voter may choose to cancel the voter's registration. A voter who requests cancellation should be provided with an "Authorization to Cancel Registration" State Form: VRG-14. When this form is signed and returned by the voter to the appropriate county voter registration office, the registration must be cancelled.

## **Statewide Voter Registration Maintenance Program**

The NVRA and Indiana statute requires that any state program for the maintenance of an accurate voter registration roll..."shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965." 42 U.S.C. § 1973gg-6 (b), IC 3-7-38.2-2. In Indiana, the state program in current use includes a process whereby the election division contracts with a vendor who compiles voter registration data from all 92 counties. This consolidated data is then searched for potential duplicate registrations. This search is based upon first and last name and date of birth of the voter. Voters with the same first and last names and same birth dates are mailed a postcard that lists all of the addresses of the matched voters. The voter is asked to indicate for each address listed on the postcard:

- If it is their correct address (they currently living there)
- If it is a former address (they used to live there, but have moved and re-registered)
- If they have never lived at the address (it is a completely different voter)

Based upon the returned postcards, a report is sent to affected county voter registration offices listing: 1) voters with duplicate registrations who have indicated a current residence within the county; 2) voters with duplicate registrations who are currently registered to vote in the county but indicate a current residence in another county; and 3) voters with duplicate registrations who are currently registered in the county but who have not returned a postcard. Information supplied by voters in category 1 may be used to update a voter's registration. Voters in category 2 above shall be cancelled. Voters in category 3 shall be placed on "inactive status." IC 3-7-38.1-5.

A voter placed on inactive status may be cancelled if the voter fails to re-register, respond to a confirmation notice or fails to vote between the time the first postcard was sent in the duplicate elimination program to the second congressional election following. IC 3-7-38.1-7. There is a congressional election at least every two years. For example, as a result of the duplicate elimination program a voter is placed on inactive status in October of 2002. The first congressional election that is counted for purposes of canceling the registration is the congressional election is November 5, 2002. The second congressional election to count is the one that will occur on November 2, 2004. Therefore, after the 2004 general election the person's registration may be cancelled if the person does not re-register, respond to a confirmation notice, or vote in the 2002 general election, the 2003 municipal primary, the 2003 municipal election or the 2004 general election. If the person re-registers, responds to a confirmation notice or votes any of these elections then the voter must again be designated as an active voter and his registration may not be cancelled after the 2004 general election.

The duplicate elimination program has had limited success in reducing the voter registration rolls in Indiana. One problem is that the duplicate elimination program is not conducted on an on-going basis. State statute requires that the program be conducted in even numbered years. IC 3-7-38-1-3. Other problems that have been identified with the program: 1) lack of uniformity of registration software; 2) lack of uniformity in the coding of registration data; 3) incomplete data; and 5) lack of a unique identifier.

The secretary of state (with consent of the election division co-directors) is required to implement to implement a new computerized statewide voter registration system (see "Statewide Voter Registration System" below). However, until that statewide voter registration file is established, the Election Division must still conduct a duplicate elimination program as it has in the past. To assist in the administration of the program, the Election Division has issued detailed formatting specifications for the registration files submitted by the counties.

Another simple method to conduct voter registration maintenance that is permissible under NVRA and state law is to include a request to cancel a registration as part of a jury questionnaire. An example of such a jury questionnaire is included in the attached appendix.

Even though there may be no duplicate elimination program conducted in odd number years, county voter registration officials must nonetheless submit their registration records, current as of February 1, to the election division by February 15. IC 3-7-26-3, 4 & 5 These records are compiled into a statewide voter registration list for use by, among others, the major political parties.

A county voter registration officer is required to document that required voter list maintenance activities have been performed no later than 90 days before each election. An Affidavit of County Voter Registration Officer Concerning Voter List Maintenance (State Form VRG-21) must be filed with the county auditor. IC 3-7-12-27

In addition, state statute requires county voter registration officials to submit a report to the election division on January 31 that includes a statement of the number of voters in each precinct of the county as of December 31 of the preceding year. IC 3-7-12-28

Each county voter registration office also completes a voter registration tracking report that is filed with the election division shortly after the end of each quarter in the calendar year. This report provides information regarding the numbers of new or updated voter registration applications that are processed in the county during that reporting period. The election division compiles these county quarterly reports into an annual report that is submitted to the Federal Election Commission once each year as a requirement under the National Voter Registration Act. State Form: NVRA Tracking Report VRG-5.

### **Statewide Voter Registration System**

HAVA, as implemented in Indiana, requires the secretary of state (with consent of the election division co-directors) to implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration system that complies with HAVA. The phrase used in HAVA to describe this system is "computerized list." The deadline for establishing a statewide voter registration system that complies with HAVA is moved to January 1, 2004 (was July 1, 2004 under former law). However, this 2004 deadline is subject to the waiver that can be granted under HAVA to extend the deadline until January 1, 2006.

The new HAVA statewide voter registration system must: (1) be defined, maintained, and administered at the state level; (2) contain the name and registration information of every voter in Indiana; and (3) assign a unique identifier to each voter in Indiana. The statewide voter registration system's list serves as: (1) the single system for storing and managing the official list of voters throughout Indiana; and (2) the official voter registration list for the conduct of all elections in Indiana. The system must be coordinated with other agency databases within Indiana.

Each county voter registration office, the election division, and the secretary of state must be able to obtain immediate electronic access to the information contained in the statewide voter registration system. The system must be formatted so that only the county voter registration office of a county may change data in the file concerning the voters registered in that county. A county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the system on an expedited basis at the time the information is provided to the county voter registration office. The election division and each county voter registration office must provide adequate security to prevent unauthorized access to the system. The secretary of state and the election division must provide the support required for the county voter registration office to enter the information into the system.

Many voter list maintenance requirements under current law will be modified when the statewide voter registration system is implemented. For example, the current version of the duplicate elimination program will be phased out and replaced by other maintenance procedures.

Under the direction of the Indiana HAVA plan, the secretary of state and co-directors selected a consultant to help Indiana design the best possible “state of the art” voter registration system available for the funding that is available. This consultant has been contacting, among others, local voter registration officials to get their ideas, suggestions and concerns regarding the features to be included in this new system.

## **Fail Safe Procedures**

Fail safe provisions of federal and state law permit a person to vote in specific circumstances even though the person’s name does not appear on the poll list or the person’s name or address is different than the name or address that appears on the poll list. These specific circumstances are described below.

### **A. Fail safe procedures where the voter’s name does not appear on the poll list**

1. **Mistake of County:** A voter whose name does not appear on the poll list because of an error made by the county may nonetheless vote. The voter must first obtain a “certificate of error” from the clerk or board before being allowed to vote. Some counties may require the voter to present the certificate of error to the precinct inspector. Most counties allow a voter to vote after confirming over the telephone that a certificate of error will be issued to the voter. The voter is not required to wait until the certificate of error arrives at the polling place. IC 3-7-48. State Form: Certificate of Error VRG-22.

NOTE: The county voter registration office must add the name of the voter to the county voter registration records. [Formerly, the name of the voter was only added by the precinct election board to the precinct poll list.] The county voter registration office may unseal the envelope containing the poll lists after the envelopes are returned from the precinct for the purpose of adding this voter’s name to the county voter registration records. SEA 136, IC 3-7-48-8, IC 3-10-1-31.

2. **The voter’s name is not on poll list but the county has a record of them at the address they claim to now live but the record shows the registration has been cancelled:** This voter must be allowed to vote in the precinct if the voter is willing to sign a written statement on the poll book in the presence of the inspector or one of the judges that the voter continues to reside at the address in the precinct that was formerly shown on the county’s voter registration record. This is so even if the registration records show that the voter’s registration at the address was cancelled at the voter’s request! The voter is also allowed to make an oral affirmation instead of signing a written statement. If this occurs, the poll clerks must write down the information on the poll book for the voter and initial the statement. IC 3-7-48-5. If this procedure is used the precinct election board should contact the County Election Board so that the County Election Board can contact any other precinct where the voter’s name may be incorrectly included on the poll list.

**3. The voter's name is not on the poll list but the voter appears at polling place with a receipt from the BMV or other registration agency (VRG-6) indicating that the voter submitted a registered application at the agency before registration closed:** If the person is not on the poll list but produces a receipt of registration from an agency, like the BMV, they have a right to vote if: 1) The date on the receipt indicates the voter applied for registration before registration closed (29 days before the election); **AND** 2) the county registration office either has no record of the registration application or shows that the application was received and approved. IC 3-7-48-7. The voter may not vote if the county's records show that the registration was received and rejected unless the clerk or board determines that the rejection was a mistake.

If the county records show that the registration application was approved but the voter is not on the poll book a certificate of error may be issued. If the county registration office has no record of the registration application being received, the inspector and judge must write the name and address of the voter in the poll book and require the voter to sign the poll list. The inspector and judges **MUST** add a note on the poll list to the effect:

"Permitted to vote after producing receipt per IC 3-7-48-7. Receipt stated date of application as September 1, 2004, which was within the registration period. Receipt stated registration office address or ID # as Springfield Branch #13, and agency employee as Selma Bouvier."

If the voter is allowed to vote under this procedure because the county registration office has no record concerning the person's registration application, the county voter registration office is required to notify the election division within seven days after the election so that the election division can investigate to try and determine why the voter has a receipt but the county received no registration application.

**B. Fail safe procedures where the voter's name appears on the poll list but the voters name or address has changed**

**1. Voter is on poll list but has moved within the same precinct or the voter's name has changed:** The voter should sign the poll book with the new address or new name (for example, married name) and the new address or new name should be updated upon the registration records as soon as registration re-opens after the election. IC 3-7-39-7

**2. Request for Transfer Within 30 Days of Election (VRG-4/12 form):** If the voter moved outside of the precinct to any other precinct in Indiana within the final 30 days of before the election, the voter must produce, or sign before the inspector or a judge, an *Affidavit of Request for Transfer of Registration by Certain Voters Moving Within 30 Days of Election* (VRG-4/12 form) and then the voter may proceed to vote. IC 3-10-11-6

**NOTE: A transfer affidavit (VRG-4/12) used for this purpose for a person who has moved to a precinct in another county, together with the original affidavit of registration, must be mailed to the county in Indiana where the person now resides within 30 days after registration opens after the election, IC 3-7-43-4 A transfer affidavit (VRG 4/12) used to transfer registration within the county should be processed as soon as the registration opens. IC 3-7-39-5**

**NOTE:** Although, in general, election records are to be maintained under seal for 22 months after the election, the clerk or board may unseal the envelopes containing the poll lists and transfer affidavits to update the registration records of the county. The clerk or board should also use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. The poll lists must be resealed after updating the registration records. IC 3-10-1-31

**3. Request for Transfer Within Same County and Same Congressional District (VRG-4/12 form):** If the voter moved more than 30 days before the election outside of the precinct to another precinct that is still in the same county and congressional district, the voter must produce, or sign before the inspector or a judge, an *Affidavit of Request for Transfer of Registration Within Same County and Congressional District* (VRG-4/12 form), and then the voter may proceed to vote. Federal law also allows the voter to make an "oral affirmation" of this information in the presence of the precinct election board. If this happens, the poll clerks must complete the VRG-4/12 form for the voter and initial the form in the indicated places. IC 3-10-12-3.

This fail-safe provision does not apply the same during in a municipal election year. For example, since the person must return to their prior precinct to vote it is possible for a person who does not live in a city or town to move within the same county and congressional district, however, since there is no election being conducted in his prior precinct, this voter may not return to it and vote in the municipal election. IC 3-10-12-3. In addition, a voter who moves outside of a municipality may not return to the precinct where the voter formerly resided to vote in a municipal election even though the voter moved within the same county and congressional district.

**NOTE:** A transfer affidavit (VRG 4/12) used to transfer registration within the county should be processed as soon as the registration opens. IC 3-7-39-5.

**4. Voting for President and Vice-President Only (VRG-15 form):** If the voter moved from an Indiana precinct to a new residence outside of Indiana and moved within the final 30 days before election day, the voter must produce, or sign before the inspector or a judge, an *Affidavit for Presidential Voting Only* (VRG-15) and then the voter may proceed to vote. However, the voter may only be given a ballot to vote for electors for president and vice-president. IC 3-10-10.

**NOTE:** If the person is allowed to vote with a VRG-15 then this affidavit constitutes authorization to cancel the person's registration. IC 3-7-43-5.

The fail-safe provisions applicable when the voter's name appears on the poll list but the voter has moved within the state, or outside of the state, as described in section "B" above, are summarized in the decision diagram in the attached appendix.

**5. Provisional ballots:** This additional fail safe procedure for certain voters will not be in effect during 2003, but will apply to elections held on or after January 1, 2004.

## **Public Records**

### **Public Records Requests**

In general, voter registration records are public records and are subject to examination and/or copying by the public pursuant to IC 5-14-3. Documents that are confidential and not subject to examination and/or copying by the public include: 1) records concerning declinations to register; 2) records that indicate the identity of a voter registration agency where a person registered; and 3) voter registration records of participants in the attorney general's confidentiality program for abused women. IC 3-7-27-6.

A county that maintains voter registration information on a computerized system shall act in accordance with a non-discriminatory uniform policy adopted by the county election board regarding providing duplicate copies of a computer tape, computer disc, microfilm or other similar record that contains voter registration information. The policy must either permit a person to obtain a duplicate copy in electronic form or not. If the policy does allow duplicate copies then it must do so according to the non-discriminatory uniform policy. IC 3-7-27-6(c), IC 5-14-3-3(g). The policy should be express and written. A person requesting this information must submit that request on state form VRG-24 that requires the requesting person to agree that the information will not be used to solicit merchandise, goods, services or subscriptions. The person must also agree not to sell, loan, give away or otherwise deliver the information to any other person for a purpose other than political activities or political fund-raising activities. In addition, if there is a cost for providing copies for records, the charge must be uniform to all purchasers per IC 5-14-3-8(d).

A circuit court clerk or board does not have to create and provide a list or record that has not otherwise been created unless state statute imposes a duty on the clerk or board to create the list or record. However, if a list has been created, whether required by statute or not, it is a public record and must be provided unless it is subject to some exception under the Public Records Act. IC 5-14-3-4.

### **Public Records Retention**

A county voter registration office receives many documents in the performance of its duties. These records must be retained for a period of time specified by the NVRA and/or Indiana statute. Also, a county commission on public records may have adopted a retention schedule pursuant to IC 5-15-6. that may apply to the retention and destruction of public records. However, this retention schedule could not provide for the destruction of records earlier than dates specified by federal or state statute applicable to the records in question.

It is of paramount importance to always keep the voter registration application for any voter who is "active", and for an "inactive voter" until the registration of the inactive voter is either cancelled or reclassified as "active". Once cancelled for any reason (death, moving, duplicate elimination program, imprisonment following conviction), the cancelled registration must be kept for 2 years. Other documents that must be kept for 2 years are: 1) rejected registration applications; 2) declinations; 3) reports regarding persons who have been imprisoned following conviction from the county sheriff, Department of Correction or any court; 4) reports regarding the death of any person used to cancel that person's registration received from the State Department of Health or any local health official; 5) any postcard, list or other information received during the course of a duplicate registration elimination program; 6) any affidavit used to cancel or transfer a registration, including the VRG 4/12 and 15; 7) certificates of error; 8) any report from the election division or other source from out of state regarding the cancellation of a registration due to a voter moving out of state. IC 3-7-27-6.

Some county voter registration offices keep the poll lists after election day once they are used to update voter registrations based upon activities occurring on election day. Poll lists must be retained at least 22 months after the election before they are destroyed. However, for convenience sake, these records may be batched with the records that may be destroyed after 24 months. Further, it may be easier to batch records for destruction according to the year to which they pertain. For example, all documents that pertain to 2002 may be destroyed on January 1, 2005.

## **Violations and Penalties**

### **Investigations and Enforcement:**

**A county election board may investigate and rule on questions concerning reported voter registration law violations.** If the county election board has substantial reason to believe that a violation of the voter registration laws has or will occur, the board may conduct a hearing to resolve the issue. The county election board has the power to subpoena witnesses, and question those witnesses under oath. If, after affording due notice and an opportunity for a hearing, the county election board believes that an act constitutes or will constitute a violation, the board may take whatever action it deems proper under the circumstances. This includes referring the matter to the attorney general for civil action, or to the county prosecuting attorney for criminal prosecution. IC 3-6-5-31; 3-14-5-3.

**Indiana law also requires that a county election board forward all challenge affidavits returned by precinct election officers following the close of the polls to the foreman of the grand jury when the jury is next in session.** The grand jury is required to inquire into the truth or falsity of the affidavits, and to file a report of the results of its inquiry with the court.

Indiana election law provides that the following offenses are Class D felonies, which subject a person to up to three years of imprisonment, a \$10,000 fine, or both, upon conviction. The laws cited below should be studied carefully, since they may contain requirements or exemptions that are not set forth in detail in this summary:

- (1) Refusing to receive and record a petition of nomination when presented in accordance with the election laws, or suppressing such a document that has been duly filed. IC 3-14-1-1.
- (2) Knowingly voting or offering to vote at an election when the person is not registered or authorized to vote. IC 3-14-2-9.
- (3) Except when permitted under certain "fail safe procedures", knowingly voting or offering to vote in a precinct except the one in which the person is registered and resides. IC 3-14-2-11.
- (4) Knowingly voting or applying to vote in a name other than the person's own. IC 3-14-2-12.
- (5) Having voted once at an election, knowingly applying to vote at the same election in the person's own name, or any other name. IC 3-14-2-12.
- (6) Knowingly hiring or soliciting another person to go from one precinct to another for the purpose of voting at an election when the person hired or solicited is not a voter in the precinct. IC 3-14-2-13.
- (7) Allowing a person to vote who is not entitled to vote, or by use of an unauthorized procedure, if a precinct election officer or public official. IC 3-14-2-14.
- (8) Knowingly omitting to perform a duty imposed by the election code, if a precinct election officer or public official. IC 3-14-4-3.

# Appendix

Affidavit of Request for Transfer of Voter Registration (VRG-4/12)  
NVRA Tracking Report (VRG-5)  
Indiana Voter Registration by Mail Application (VRG-7p)  
Indiana Voter Registration by Mail Application (County version) (VRG-11)  
Indiana Voter Registration Material Receipt (VRG-8)  
Indiana Voter Registration Material Transmittal (VRG-9)  
Voter Registration Acknowledgments (VRG-10 and VRG-13a)  
Authorization to Cancel Registration (VRG-14)  
Affidavit for Presidential Voting Only (VRG-15)  
Notice of Disfranchisement (VRG-17)  
Affidavit of Voter List Maintenance (VRG-21)  
Certificate of Error (VRG-22)  
Application for County Voter Registration Data (VRG-24)  
Request for Voter Registration Material (IEC-9)  
Uniformed Service Voter Registration Certificate (ABS-11)  
Affidavit for Late Voter Registration by Absent Uniformed Services Voter (ABS-13)  
Sample Notice to Certain Voters Required to Provide Additional Documentation  
County Voter Registration System Additional Documentation Coding System  
Federal Registration Form  
Federal Registration and Absentee Ballot Request (Standard Form 76)  
Jury Questionnaire with Voter Registration Questions  
Fail Safe Decision Diagram for Voters Moving Out of State  
Fail Safe Decision Diagram for Voters Moving Within the State



***SAMPLE NOTICE TO VOTERS WHO REGISTERED BY MAIL***

**IMPORTANT NOTICE.  
PLEASE READ CAREFULLY AND RESPOND PROMPTLY**

July 2, 2003

Ms. Postal Voter  
123 Maple Street  
Smallville, IN 47000

Dear Ms. Voter:

**Thank you for registering to vote by mail. Under a new federal law, if you submitted your application to register to vote through the mail after January 1, 2003, you must present this office with a copy of a personal identification document before your ballot can be counted in the 2004 elections. [This requirement does not apply to any local election in 2003, and you are required to present this document even if you voted in an election in 2003. *NOTE: This sentence would be deleted from any notice mailed after the November 2003 election.*]**

If you feel you have received this notice in error, please check one of the following exemptions, sign this notice, and return the notice to the County Voter Registration Office.

\_\_\_\_\_ I previously voted in a **general** election in *This* County in the following year (circle one) 2002; 2000; 1998; 1996; other \_\_\_\_.

If I was registered to vote under a different name at that election, my name was:

\_\_\_\_\_

\_\_\_\_\_ I am a military voter, the spouse of a military voter, or a dependent of a military voter, who is currently outside of *This* County.

\_\_\_\_\_ I am an overseas voter who is currently outside of the United States.

\_\_\_\_\_ I did not register to vote by mailing a voter registration application to your office.

**YOUR SIGNATURE:** \_\_\_\_\_

**DATED:** \_\_\_\_\_, 200\_\_

**(OVER)**

**If you do not qualify for one of these exemptions, please:**

**come into the county voter registration office to present the document, OR**

**return this notice by mail or FAX (to xxx-xxx-xxxx) with a photocopy of one of the following documents.**

**Do not mail this office an original copy of any document.**

The document must have YOUR NAME AND CURRENT RESIDENCE ADDRESS PRINTED ON THE DOCUMENT:

- Current and valid photo identification, such as your Indiana driver's license.
- Current utility bill.
- Current bank statement.
- Current government check.
- Current paycheck.
- Other government document that shows your name and address.

**PLEASE NOTE:**

**If you are required to present this documentation to the County Voter Registration Office, we encourage you to do so now, if possible, and at least 30 days BEFORE election day (May 4, 2004 or November 2, 2004).**

If you do not do so, you will be asked by the poll workers at your precinct to present this documentation.

If you do not present the poll workers with this documentation, you will still be allowed to vote. If you present your document to the county voter registration office before the polls close at 6 pm local time, your ballot will be counted. If you do not present this document before the close of the polls, your ballot will not be counted since you have not complied with the requirements under the new federal law.

If you have further questions, please contact the County Voter Registration Office.

**Thank you for your assistance!**

**Issued as required by: 42 United States Code 15483, Indiana Code 3-7-33-4.5, Public Law 209-2003, SECTION 204.**

## **DRAFT MEMORANDUM**

**TO: County Voter Registration Officers**

**FROM: J. Bradley King and Kristi Robertson**

**RE: Draft coding system for identification documents presented by certain voters beginning with the 2004 elections.**

**DATE: August 5, 2003**

As directed by Indiana Code 3-7-27-20(c) and IC 3-11-8-25(h), (copies enclosed), we are providing your office with a suggested coding system to be used to enter information about voter identification documents into your county's voter registration system.

These documents are the identification that must be presented by certain voters at elections beginning in 2004 to permit that voter's ballot to be counted. **Voters will not be required to present the identification documents in order to vote at the November 4, 2003 municipal election.**

The sample notice that we provided to you last month encourages the first-time voters in your county who registered by mail to provide these identification documents to your office before election day by returning a copy to you by mail or by stopping by the county voter registration office in person to provide a copy of the document.

IC 3-7-27-20 provides that if this voter provides documentation to your office, you must make an entry about this documentation in your county's voter registration record for that voter. This entry must indicate:

- (1) the date the document was filed;
- (2) whether the document was provided by the applicant as part of the original application or as a later filing with your office, or whether the document was provided to the county election board if the voter applied for an absentee ballot, or whether the document was presented to the precinct election board at the polling place.
- (3) a "brief description" of the document provided.

Since each county's voter registration software is different, you will want to contact your software vendor to determine the best way to enter this information into your system.

We understand that some counties are optically scanning a copy of the document that the voter is providing. This procedure is certainly acceptable, and would more than fulfill the law's requirement for a "brief description" of the document. Please remember that whether or not you scan these documents, you will need to retain the document filed with your office for at least two years to comply with state law on the retention of voter registration records (IC 3-7-27-6(b)).

If you do not wish to scan these documents, or do not have the ability to do so, you can certainly use the following example as a model for the data to be entered into your system concerning this voter's documents. However, state law does provide some flexibility in how you enter this information, so please feel free to make common-sense modifications that will work in your voter registration software system. Again, you may want to discuss with your vendor the most practical way to approach this task in your county.

In the field in which you currently enter voter transactions, such as a change of address indicated on a poll list, you may enter something to this effect:

## ID Documentation

Date Filed	Aug 20, 2003
How Provided	<i>At counter [or Mailed or faxed Absentee application or ballot Polling place]</i>
Document Type	DL, PH, etc. (see below)
Notes	Aug 11, 2003: Mailed copy KY driver license Aug 12, 2003: Phone call to voter, doc not accepted

Despite all of our efforts, there will probably be a voter who is required to provide this documentation, but has not done so by election day. When this voter arrives at the polls, the poll list must indicate that the voter must be asked for this documentation before voting. If the voter then presents a document to the precinct poll clerk, the poll clerk must “add a notation to the [poll] list indicating the type of document presented by the voter.”

Of course, in most polling places, the poll clerk could not make a photocopy of the voter’s document. Instead, the poll clerk would make a notation on the poll list using the following two-letter system:

DL	Indiana Driver’s License or BMV ID card with voter’s current name and address.
PH	Other current and valid photo ID that contains voter’s current name and address
UB	Current utility bill with voter’s current name and address
BK	Bank statement with voter’s current name and address
GV	Government check with voter’s current name and address
PY	Paycheck with voter’s current name and address
GD	Other government document that shows voter’s current name and address

After the poll lists are returned from your precincts, you must then transfer the document coding information to your county voter registration records in the same way that you record voting history, voter address changes, and other information from the poll list.

**Remember that the use of this coding at the polling place is not required at the election of November 2003. However, if you are sending out notices to these voters this year, and wish to use this coding system to record the voter’s response in the county voter registration office records, you may do so beginning immediately.**

Again, please keep in mind that the most important task here is to receive and document in your records the information that these voters are required to provide by state law. The coding system and data entry model are simply our suggestions for the best way to do so.

If you have questions regarding the coding system, or this process, please contact us.

Thanks for your continuing assistance as we implement HAVA.

## Sample Jury Questionnaire

Name \_\_\_\_\_

Address \_\_\_\_\_

Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_

### Qualifications:

ARE YOU A CITIZEN OF THE UNITED STATES? YES ☐ NO ☐

ARE YOU 18 YEARS OF AGE OR OLDER? YES ☐ NO ☐

ARE YOU A RESIDENT OF MARION COUNTY? YES ☐ NO ☐

DO YOU READ, WRITE, SPEAK AND UNDERSTAND  
THE ENGLISH LANGUAGE? YES ☐ NO ☐

DO YOU HAVE A PHYSICAL OR MENTAL DISABILITY  
THAT WOULD INTERFERE WITH OR  
PREVENT JURY SERVICE? YES ☐ NO ☐

ARE YOU UNDER A SENTENCE IMPOSED FOR AN  
OFFENSE? YES ☐ NO ☐

ARE YOUR VOTING RIGHTS REVOKED? YES ☐ NO ☐

HAVE YOU SERVED AS A JUROR IN MARION COUNTY  
IN THE PAST YEAR? YES ☐ NO ☐  
IF SO, LIST THE MONTH \_\_\_\_\_

ARE YOU UNDER A GUARDIANSHIP DUE  
TO A MENTAL INCAPACITY? YES ☐ NO ☐

Statutory Exemptions: CHECK BOX TO CLAIM EXEMPTION.

☐ AGE 65 OR OLDER

### Deferral:

☐ DUE TO PERSONAL HARDSHIP I AM UNAVAILABLE FOR JURY SERVICE AT THIS TIME, BUT, WOULD BE AVAILABLE WITHIN THE NEXT TWELVE (12) MONTHS.

I WOULD BE AVAILABLE THE MONTH OF \_\_\_\_\_  
THE JUDGE WILL ADDRESS ANY OTHER REASON YOU SHOULD BE EXCUSED IN COURT ON THE DAY YOU APPEAR FOR JURY SERVICE.

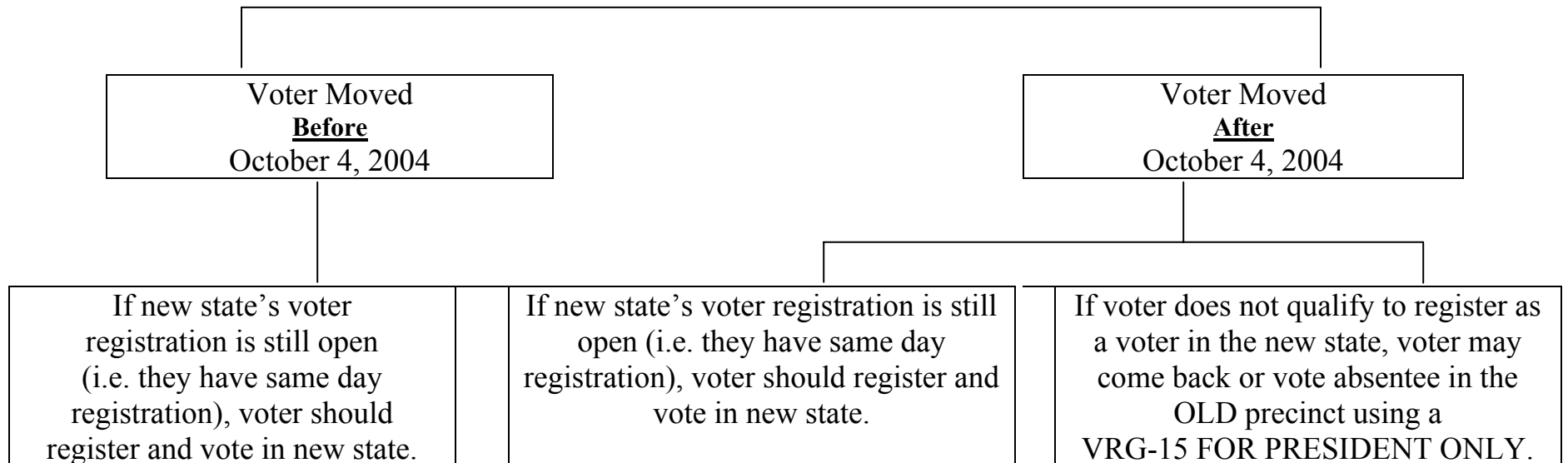
**IF YOU ARE NOT A RESIDENT OF MARION COUNTY, DO YOU WANT TO  
CANCEL YOUR VOTER REGISTRATION? YES ☐ NO ☐**

I AFFIRM UNDER PENALTIES FOR PERJURY THAT THE ANSWERS TO ALL QUESTIONS ARE TRUE AND CORRECT.

Date \_\_\_\_\_

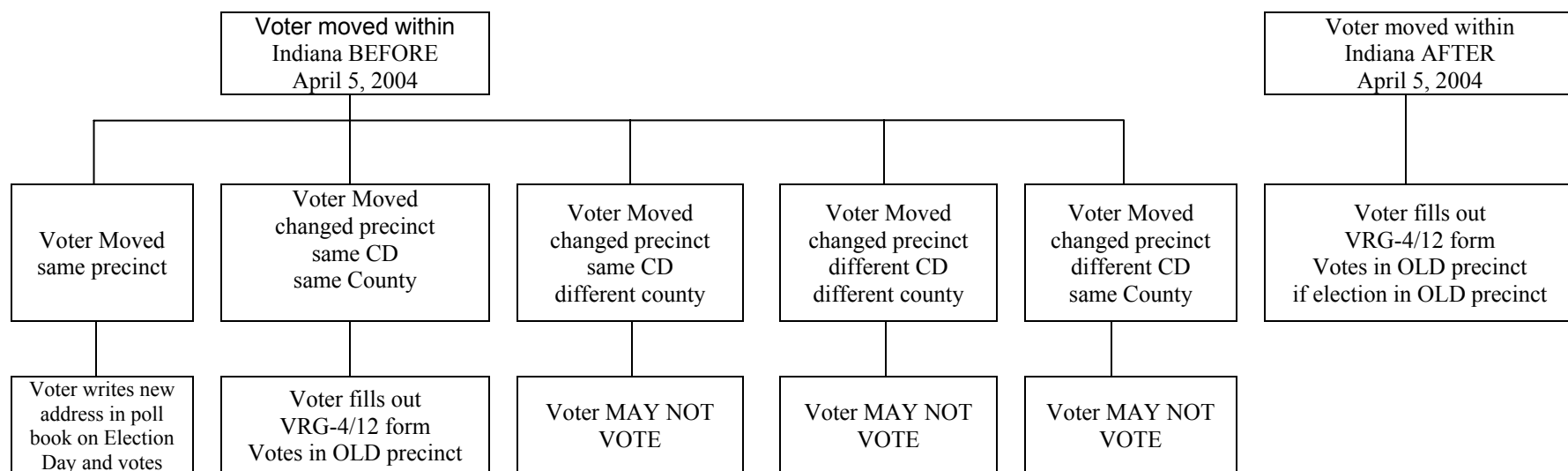
Signature \_\_\_\_\_

## Registered Voter Moved OUT of State of Indiana



# Registered Voter Moved Within State of Indiana

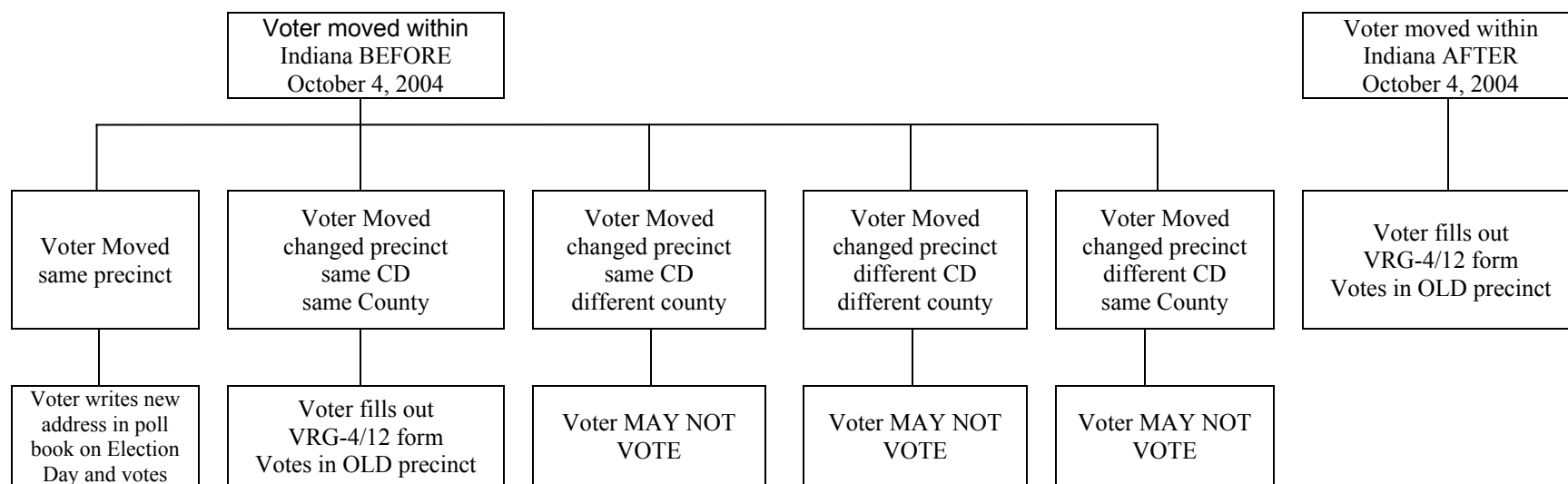
## May 4, 2004 Primary Election



**CD Refers to  
Congressional District**

# Registered Voter Moved Within State of Indiana

## November 2, 2004 General Election



**CD Refers to  
Congressional District**